

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**KATHRYN Y. WILLIAMS**

## Claimant

VS.

**HUNTER HEALTH CARE, INC.**

Respondent

AND

**NATIONAL UNION FIRE INSURANCE COMPANY**

Insurance Carrier

Docket No. 195,100

## ORDER

Respondent requested the Appeals Board to review a Preliminary Hearing Order entered by Administrative Law Judge John D. Clark on February 14, 1995, that granted claimant's request for medical and temporary total disability benefits.

## Issues

Respondent questions whether the claimant suffered a personal injury by accident that arose out of and in the course of her employment with the respondent on August 14, 1994.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

The issue raised by the respondent in this appeal is one subject to review by the Appeals Board from a preliminary hearing order in accordance with the provisions of K.S.A. 44-534a(a)(2).

Claimant alleged that she injured her back while employed as a cook for the respondent on August 14, 1994. She claimed she was pulling a food pan from the oven prior to lunch on Sunday, August 14, 1994, when she felt a sharp pain in her lower back. A friend of claimant's, Laura Queen, witnessed the claimant's injury and verified the same during testimony contained in the preliminary hearing transcript.

Claimant established through her testimony that shortly after the accident she notified Corenne Robinson, CNA, who was the person in charge on this particular Sunday. Additionally, claimant established that the next day she telephoned her supervisor, Diana Pulvick, notifying her of the accident.

Claimant did not work the next day, Monday, August 15, 1994, and when her back pain became severe, she sought medical treatment at a hospital emergency room at approximately 12:25 a.m. on the morning of August 16, 1994. The emergency room medical record does not relate claimant's back injury to her work. However, the claimant testified she told the physician assistant who took her history that she did hurt her back at work. Also, in a letter dated February 3, 1995, to claimant's attorney, Dr. Bond, who treated the claimant, related that the claimant did give him a history of hurting her back while employed by the respondent. Respondent presents no medical evidence to contradict Dr. Bond's letter.

Claimant's work-related accident is also corroborated by witness Laura Queen. The only contradicting evidence that the respondent presents is an unsworn statement from Corenne Robinson, CNA, stating that on the day in question the claimant requested Tylenol for a headache and not for an injured back.

The Appeals Board finds, for preliminary hearing purposes, that the claimant has established that it is more probably true than not that she hurt her back while working for the respondent on August 14, 1994. Accordingly, the Preliminary Hearing Order entered by the Administrative Law Judge that granted medical and temporary total benefits is affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the February 14, 1995, Order of Administrative Law Judge John D. Clark should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: S. A. (Tim) Scimeca, Jr., Wichita, KS  
Kim R. Martens, Wichita, KS  
John D. Clark, Administrative Law Judge  
George Gomez, Director